

APPEAL NO. 020246
FILED MARCH 18, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 10, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) has not had disability and that the employer did not tender a bona fide offer of employment to the claimant pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 129.6 (Rule 129.6). The claimant appeals the hearing officer's determination that she has not had disability. The respondent (carrier) responded, requesting affirmance. There is no appeal of the hearing officer's determination on the issue of a bona fide offer of employment.

DECISION

The hearing officer's decision is affirmed.

Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The claimant has the burden to prove that she has disability as defined by the 1989 Act. Texas Workers' Compensation Commission Appeal No. 94248, decided April 12, 1994. The evidence reflected that the claimant had the ability to perform light-duty work after her compensable injury of _____, and that the claimant actually performed light-duty work for her employer for about 20 days. There was conflicting evidence regarding why the claimant did not continue to perform the light-duty work and the hearing officer resolved the conflicts by finding that the claimant chose not to continue to work. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision that the claimant has not had disability is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **VALIANT INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GEORGE MICHAEL JONES
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Robert W. Potts
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Edward Vilano
Appeals Judge